

**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE PATENTING
REJECTION OVER A PENDING "REFERENCE" APPLICATION**Docket Number (Optional)
36671-716.302

In re Application of: Kenneth F. Buechler

Application No.: 10/697,351

Filed: October 29, 2003

For: Diagnostic Devices and Apparatus for the Controlled Movement of Reagents without Membranes

The owner, Biosite Incorporated, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending reference Application Number 11/022,297, filed on December 22, 2004, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the reference application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.


In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said reference application, "as the term of any patent granted on said reference application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending reference application," in the event that: any such patent: granted on the pending reference application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 63,535


 Signature

 July 2, 2009
 Date

Anavelys Ortiz-Suarez

Typed or printed name

 (650) 493-9300
 Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included. \$140

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
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**TERMINAL DISCLAIMER TO OBIATE A DOUBLE PATENTING
REJECTION OVER "PRIOR" PATENTS**Docket Number (Optional)
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Application No.: 10/697,351

Filed: October 29, 2003

For: Diagnostic Devices and Apparatus for the Controlled Movement of Reagents without Membranes

The owner*, Biosite Incorporated, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent Nos. 7,445,941 and 6,143,576 as the term of said prior patents are defined in 35 U.S.C. 154 and 173, and as the term of said prior patents are presently shortened by any terminal disclaimer. The owner hereby agrees that any patents so granted on the instant application shall be enforceable only for and during such period that it and the prior patents are commonly owned. This agreement runs with any patents granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the **prior patents**, "as the term of said prior patents" is presently shortened by any terminal disclaimer," in the event that said prior patents later:

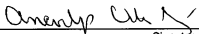
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

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